



UNIVERSITY OF
TORONTO
FACULTY OF LAW



The Law of Forced Migration

Law 547HIF

Fall 2007

VOLUME 2

Michael F. Battista

Faculty of Law, University of Toronto

Materials prepared by Professor Audrey Macklin and Michael F. Battista and
revised with the assistance of Zack Newton and Victoria Petherbridge

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Immigration and Refugee Board Statistics, January to June 2005

14,597 claims were finalized
6,164 (42%) were accepted
6,510 (45%) were rejected
995 (7%) were declared abandoned
928 (6%) withdrew or were otherwise resolved

The rate at which claims were finalized has declined. In 2004, the IRB finalized an average of 3,367 claims a month. From January to June 2005, the average is down to 2,432 a month.

The number of claims pending has been steadily declining:

30 June 2005: 22,068
End of 2004: 27,290
End of 2003: 41,575
End of 2002: 52,761

If the IRB continues at the same rate of finalization, it will take just over 9 months to finalize all the claims pending at the end of June 2005.

9,543 claims were referred to the Board from January to June 2005. This represents a continuing and accelerating decline in the numbers of claims referred since 2001. The effect of safe third country is clear.

2001: 44,038 claims referred
2002: 39,498 (down 10% from 2001)
2003: 31,937 (down 19% from 2002)
2004: 25,750 (down 19% from 2003)
2005 (Jan. - Jun.): 9,543 (down 26% from 2004 - looking at half of the year's total).

The acceptance rate has gone back to 42%, where it was in 2003 (in 2004 it went down to 40%). The percentage of abandoned and withdrawn has remained steady. Of cases that are decided at a hearing (i.e. excluding abandoned and withdrawn) 49% were accepted, up slightly from 45% in 2004.

Regional acceptance rates (as a percentage of claims finalized) for Jan.- June 2005 were as follows:

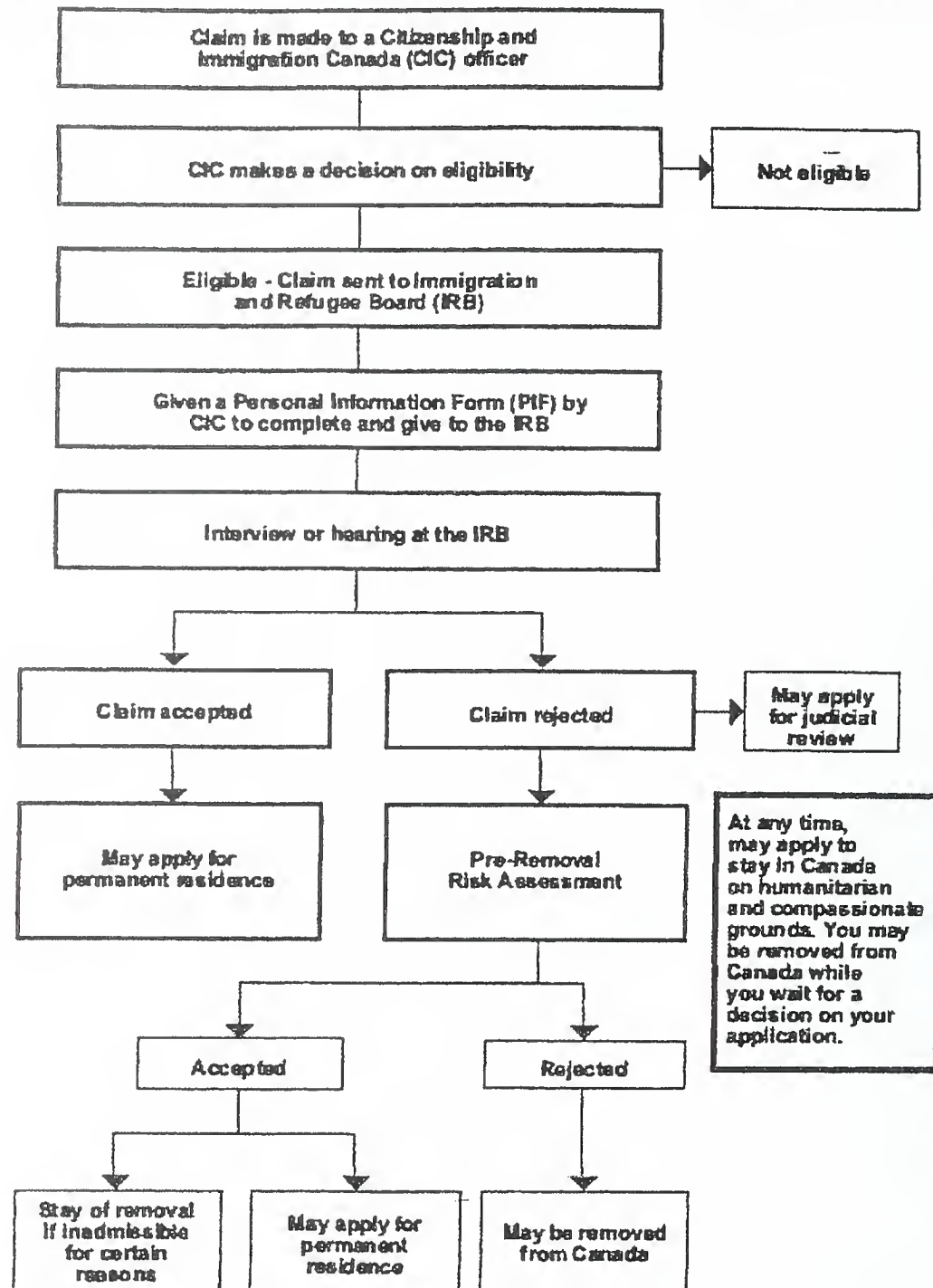
Montréal: 41% (in 2004: 41%)
Ottawa/Atlantic: 60% (in 2004: 53%)
Toronto: 44% (in 2004: 40%)
Calgary: 30% (in 2004: 27%)
Vancouver: 26% (in 2004: 24%)

The acceptance rates in Jan.-June 2005, for the top 20 countries, by number of decisions finalized, were as follows:

Mexico 15% (25% in 2004)
Colombia 77% (81% in 2004)
Pakistan 40% (35% in 2004)
China 49% (52% in 2004)
India 22% (27% in 2004)
Nigeria 43% (50% in 2004)
Sri Lanka 69% (64% in 2004)
Peru 40% (41% in 2004)
Albania 46% (40% in 2004)
Israel 26% (23% in 2004)
Hungary 14% (11% in 2004)
Bangladesh 52% (52% in 2004)
Costa Rica 17% (3% in 2004)
Guyana 19% (24% in 2004)
El Salvador 34% (20% in 2004)
Somalia 86% (79% in 2004)
Turkey 57% (63% in 2004)
Congo, DR. 62% (57% in 2004)
Portugal 0% (0% in 2004)

Note in particular the increase in the acceptance rate for Costa Rica, from 3% to 17%. This is largely seen in Toronto, where the acceptance rate is actually close to 20%.

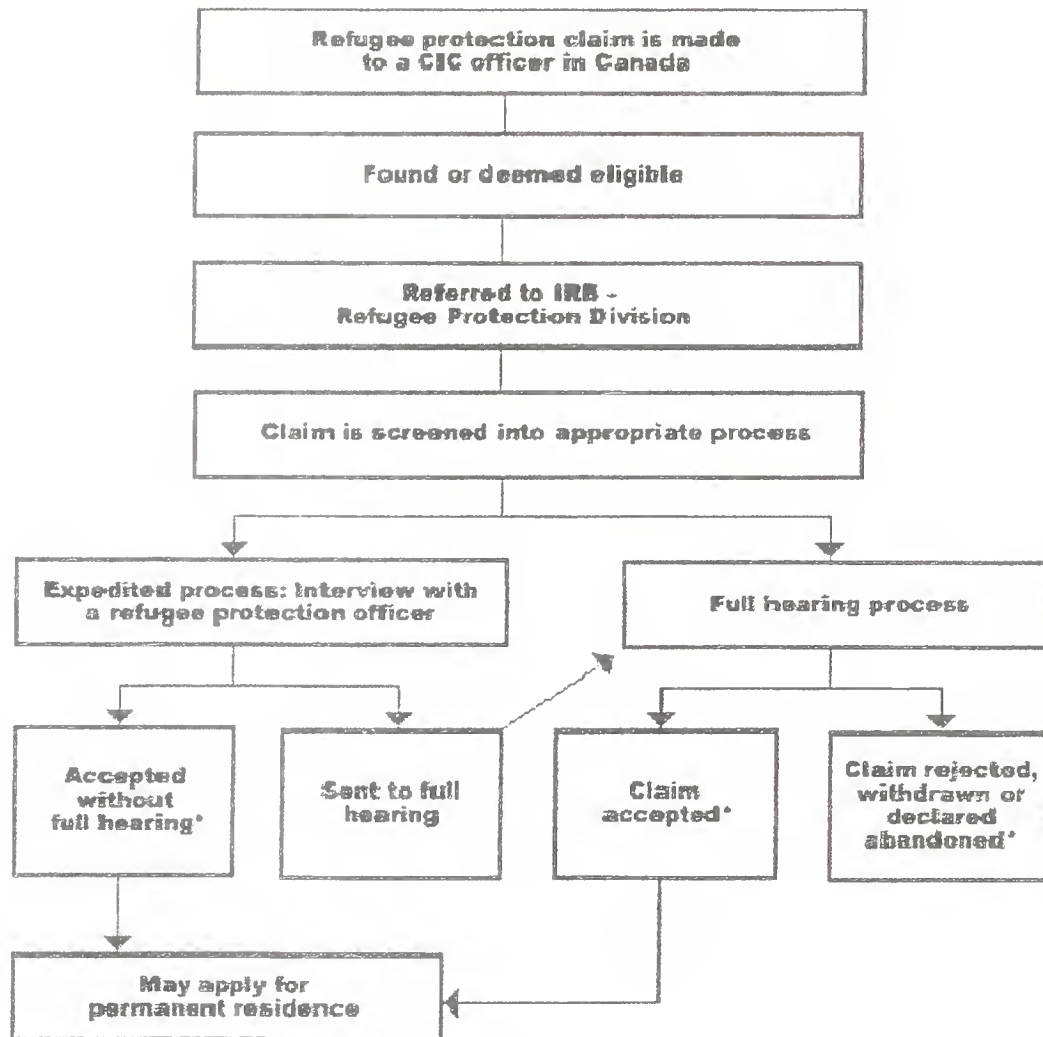
OVERVIEW OF CANADA'S INLAND REFUGEE DETERMINATION PROCESS



In *Singh v. Minister of Employment and Immigration*, [1985] 1 SCR 177, Wilson J. (speaking for 3/6 judges) ruled that the term "everyone" in s. 7 of the *Charter* "includes every human being who is physically present in Canada and by virtue of such presence amenable to Canadian law." *Refoulement* would constitute a violation of security of the person, by exposing a person to the risk of persecution at the hands of another. The refugee determination scheme in place at the time violated the principles of fundamental justice by depriving most refugee claimants of the ability to know and respond to the Minister's case against them. In circumstances where "a serious issue of credibility is involved", fundamental justice requires an oral hearing before the decision-maker. The effect of *Singh* was to require an oral hearing in all cases leading to refusal of a refugee claim, has been a feature of Canada's refugee determination system since 1989.

(2)

Refugee Protection Determination (RPD) Process



- The claimant or CIC may ask the Federal Court of Canada for leave (permission) to apply for judicial review of any decision of the Refugee Protection Division.

